

TRANSCRIPT OF PROCEEDINGS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the matter of:)
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TRINITY BROADCASTING NETWORK
and
GLENDALE BROADCASTING COMPANY

Monroe, Georgia

MM DOCKET NO. 93-156

DATE OF CONFERENCE: August 13, 1993

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of:

TRINITY BROADCASTING NETWORK
and
GLENDALE BROADCASTING COMPANY

Monroe, Georgia

MM DOCKET NO. 93-156

The above-entitled matter come on for pre-hearing
conference pursuant to Notice before Judge Joseph Chachkin,
Administrative Law Judge, at 2000 L Street, N.W., Washington,
D.C., in Courtroom No. 3, on Friday, August 13, 1993, at
9:00 a.m.

APPEARANCES:

On behalf of Trinity Broadcasting Network:

COLBY M. MAY, Esquire
May & Dunne, Chartered
1000 Thomas Jefferson Street, N.W.
Washington, D.C. 20007

HOWARD A. TOPEL, Esquire
Mullin, Rhyne, Emmons and Topel
1000 Connecticut Avenue, Suite 500
Washington, D.C.

On behalf of Glendale Broadcasting Company:

LEWIS I. COHEN, Esquire
JOHN J. SCHAUBLE, Esquire
Cohen and Berfield, P.C.
Board of Trade Building
1129 20th Street, N.W.
Washington, D.C. 20036

On behalf of the Mass Media Bureau:

JAMES W. SHOOK, Esquire
Mass Media Bureau
Washington, D.C. 20554

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25	Conference Began: 9:00 a.m. Conference Ended: 9:25 a.m.

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P R O C E E D I N G S

1
2 JUDGE CHACHKIN: This proceeding concerns the
3 application for renewal of license of station WHSG (TV) in
4 Monroe, Georgia filed by Trinity Christian Center of Santa
5 Ana, Inc. doing business as Trinity Broadcasting Network and
6 the competing application of Glendale Broadcasting Company.
7 May I have the appearances of the parties? On behalf of
8 Trinity?

9 MR. MAY: Colby M. May, Your Honor, and Howard
10 Topel.

11 JUDGE CHACHKIN: On behalf of Glendale?

12 MR. COHEN: Lewis I. Cohen and John J. Schauble,
13 Your Honor.

14 JUDGE CHACHKIN: And on behalf of the Chief, Mass
15 Media Bureau?

16 MR. SHOOK: James Shook.

17 JUDGE CHACHKIN: I have a copy of the joint report
18 that the parties filed in which they've reached certain
19 agreements and they've reached an agreement concerning
20 production of documents and the documents are to be filed by
21 August 16th, as I understand. Is that correct?

22 MR. MAY: The document request on the special issues
23 in the case, Your Honor, but the stipulated document
24 production will be October 15th.

25 JUDGE CHACHKIN: All right. Then apparently what

1 the parties have agreed to, to file any requests for
2 production of documents by August 16th? Is that correct?

3 MR. MAY: Yes, sir.

4 JUDGE CHACHKIN: And then the normal time period for
5 Motions to Compel so that objections to document requests
6 would be filed on August 31st and any Motion to Compel
7 Production of Documents would be filed on September 13, 1993,
8 and apparently that is as far as the parties have agreed to.
9 Am I right?

10 MR. COHEN: We had an informal conference this
11 morning pursuant to your direction, Your Honor.

12 JUDGE CHACHKIN: Yes.

13 MR. COHEN: Could we -- would it be permissible to
14 go off the record, Your Honor?

15 JUDGE CHACHKIN: We can go off the record.

16 (Off the record.)

17 JUDGE CHACHKIN: Off the record the parties and the
18 presiding judge have agreed on a procedural schedule which in
19 my judgment is generous and I don't see any need for any
20 extensions of time certainly as far as the hearing date is
21 concerned. The dates that have been agreed upon, Motion to
22 Compel Production of Documents will be filed on or before
23 September 13, 1993. The documents will be produced by October
24 15, 1993. Submission of affidavits of non-public witnesses
25 shall be made on February 1, 1993 (sic). Do the parties want

1 | them hand-served or there's going to be enough time?

2 | MR. SHOOK: I think hand service would be -- 1994.

3 | JUDGE CHACHKIN: All right. Excuse me. February 1,
4 | 1994 will be the date for the submission of affidavits of non-
5 | public witnesses and those documents will be hand-served.
6 | Discovery will close on February 28, 1993. The parties will
7 | exchange their exhibits -- 1994, excuse me again. The parties
8 | will exchange their exhibits on March 28, 1994. Witness
9 | notification shall be made on April 4, 1994. Objection to
10 | witness notification shall be made on April 8th -- April 11,
11 | 1994 and that shall also be hand-served, and the hearing will
12 | commence on April 18, 1994 at 10:00 a.m. at the Commission's
13 | Washington, D.C. offices, and the first order of business will
14 | be, will be an evidentiary admission session to be immediately
15 | followed by the taking of oral testimony. All right.
16 | Anything else the parties want to discuss this morning?

17 | MR. MAY: Your Honor, I guess just to clarify the
18 | record, hearing the rules that you made in Miami we are
19 | operating under the understanding that in your judgment there
20 | won't be a need for a field hearing in this Monroe matter as
21 | well. We'll follow the same procedures as far as the public
22 | witnesses -- excuse me, the non-public witness affidavits and
23 | the public witness testimony.

24 | JUDGE CHACHKIN: Well, let me ask the, the parties.
25 | Do they have any problem with that? Do you have a problem?

1 MR. COHEN: My client has none, Your Honor.

2 MR. SHOOK: The Bureau doesn't have any either.

3 JUDGE CHACHKIN: All right. So, as I understand,
4 under the schedule the depositions will be taken when? We had
5 the date for close of discovery. When do the parties
6 contemplate their discovery? I mean, we hadn't -- I hadn't
7 set a date for the taking of depositions, but I assume there
8 is a date that the parties have in mind within this time
9 period.

10 MR. COHEN: Point well taken. I have --

11 MR. SCHAUBLE: Probably February.

12 MR. MAY: Probably February.

13 MR. COHEN: Probably during February then.

14 JUDGE CHACHKIN: During February.

15 MR. COHEN: During February.

16 JUDGE CHACHKIN: Well, the reason I'm saying it is
17 that if there is going to be any -- well, let me indicate
18 this, that if the summaries and -- Mr. Cohen, you receive the
19 affidavits and you feel that there's -- and for the Bureau,
20 and that you feel there's a need to cross-examine any of these
21 witnesses --

22 MR. COHEN: You're speaking about the non-public?

23 JUDGE CHACHKIN: I'm talking about the non-public,
24 yes. And you, and you communicate that to counsel for Trinity
25 and Trinity objects to taking any of those depositions, then

1 | what I would suggest is the parties contact me and I will hold
2 | a conference to discuss that so it doesn't interfere with the
3 | discovery. But I'll leave it to the parties to discuss among
4 | themselves whether they feel there's a need for cross-
5 | examination and any objections to such cross-examination.

6 | MR. COHEN: I would -- I must confess I haven't
7 | thought about it until you brought it to my attention. I
8 | would hope that you would not do what you did in Miami and
9 | that is order depositions to be completed by a certain date
10 | and allow us to work it out within the framework of the dates.

11 | JUDGE CHACHKIN: Well, I'm -- I've indicated that I
12 | have a discovery date, close of discovery date, of February
13 | 28th.

14 | MR. COHEN: But we can take depositions at any time
15 | up until then.

16 | JUDGE CHACHKIN: Whatever the parties agree to.

17 | MR. COHEN: Thank you.

18 | JUDGE CHACHKIN: Anything else the parties want to
19 | discuss this morning concerning the issues in this case?

20 | MR. TOPEL: Is there an understanding here as to
21 | what the renewal period is?

22 | MR. SCHAUBLE: One second, Your Honor. Your Honor?

23 | JUDGE CHACHKIN: Yes.

24 | MR. SCHAUBLE: Our tentative understanding is that
25 | the station went on the air, I believe, February 22, 1991 and

1 we would, we would cut off the period on February 28, 1992
2 when Glendale filed its competing application.

3 JUDGE CHACHKIN: Is there any problem with that?

4 MR. MAY: We agree. I mean, it can't be any earlier
5 time than they began broadcast operations and it will be
6 closed at the time --

7 JUDGE CHACHKIN: Do you have any problems with that,
8 those dates, for the renewal period?

9 MR. SHOOK: No, Your Honor.

10 JUDGE CHACHKIN: I'm bringing this out to make sure
11 and to indicate to Trinity how important it is that when they
12 obtain affidavits from non-public witnesses that the -- it's
13 clear from the affidavits that any viewing that took place or
14 any benefits that one has taken occurred during this time
15 period, not some early viewing which would be irrelevant. I
16 don't think we have that same precision in the Miami case, for
17 example, where it, it may be difficult to discern whether the
18 viewing took place before the renewal period that we're
19 interested in. So I'm hoping at least in this case that the
20 parties will try to be more specific in any affidavits so that
21 we're talking about something that's relevant. If it's
22 outside the renewal period, it's not relevant. And -- but
23 that burden rests on Trinity to make sure that any of the
24 affidavits cover the relevant period.

25 Also, I -- it was my judgment in Miami, it's still

1 my judgment, that 30 provides a sufficient sampling of public
2 witnesses for purposes of determining whether an applicant is
3 entitled to renewal expectancy, so I will again limit the
4 affidavits to 30 non-public witnesses. Anything else the
5 parties want to discuss this morning?

6 MR. COHEN: Nothing, sir.

7 JUDGE CHACHKIN: Let me, let me also indicate that I
8 haven't written anything -- written my -- made my -- I mean, I
9 haven't written my rulings yet, but I do intend to deny the
10 Motion to Dismiss and the Motion for Summary Decision filed by
11 Glendale. The Motion to Dismiss was filed by Trinity. I
12 still have pending, of course, a counter-motion and a
13 contingent motion which were filed this morning. But at least
14 the parties should aware -- be aware of what my rulings will
15 be in those two instances. So we will have a hearing -- well,
16 I haven't acted on the counter-motion yet.

17 Now, as far as the engineering issue is concerned,
18 assuming that the counter-motion is not granted, is there any
19 need to discuss that issue and the type of evidence and
20 whether there's going to be any problems under -- with respect
21 to that issue, the waiver issue I'm talking about?

22 MR. COHEN: I understand your question, Your Honor,
23 but I'm not sure I, I understand your words --

24 JUDGE CHACHKIN: Well, I'm thinking in terms of
25 engineering evidence, is there any -- well, I guess this is

1 not the type of case that would require what I'm thinking
2 about, a joint agreement. We're not dealing here with that
3 type of issue, so it's strictly up to you, Mr. Cohen, to put
4 in the evidence to meet the issues.

5 MR. COHEN: That's the way I see it.

6 JUDGE CHACHKIN: All right. Anything else the
7 parties want to discuss this morning? All right. Then we're
8 now in recess until April 18, 1994.

9 (Whereupon, the conference was adjourned at 9:25
10 a.m.).

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CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

IN THE MATTER OF TRINITY BROADCASTING NETWORK

Name AND GLENDALE BROADCASTING COMPANY

MM DOCKET NO. 93- 156

Docket No.

WASHINGTON, D.C.

Place

AUGUST 13, 1993

Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 1 through 10, inclusive, are the true, accurate and complete transcript prepared from the reporting by BARBARA J. LORD in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

August 20, 1993

Date

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